

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAVID BOWEN,

Plaintiff,

Case Number: 09-10414

v.

HONORABLE AVERN COHN

RICHARD CADY and V. McCABE,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATION**  
**AND**  
**GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**  
**AND**  
**DISMISSING CASE**

I.

This is a prisoner civil rights case under 42 U.S.C. § 1983 claiming violations of the Eight Amendment. Plaintiff's claim stems from him falling down 26 steps while being moved to an upper floor cell and injuring his back. Plaintiff says he has a medical detail for a ground floor cell. Plaintiff seeks compensatory damages and declaratory relief. The matter has been referred to a magistrate judge for all pre-trial proceedings.<sup>1</sup> Defendants filed a motion for summary judgment on the grounds that plaintiff failed to exhaust his administrative remedies and failed to establish personal involvement by

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<sup>1</sup>As noted by the magistrate judge, plaintiff filed a separate case against different defendants arising out of the same incident. That case is currently pending and is assigned to the undersigned. Bowen v. Caruso, 08-12877.

defendants. The magistrate judge issued a report and recommendation (MJRR) recommending that the motion be granted. Plaintiff has not objected to the MJRR and the time for filing objections has passed.

II.

Having reviewed the MJRR, the Court agrees with the magistrate judge that plaintiff has not established that defendants were personally involved. In light of this determination, the Court, as did the magistrate judge, declines to consider whether plaintiff exhausted his claims as to defendants.

Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Defendants' motion for summary judgment is GRANTED. This case is DISMISSED.

SO ORDERED.

s/ Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: January 13, 2010

I hereby certify that a copy of the foregoing document was mailed to David L. Bowen, 2123 Mill Road, Flint, MI 48532 and the attorneys of record on this date, January 13, 2010, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager, (313) 234-5160